

(3)
No. 89-1821

Supreme Court, U.S.

FILED

DEC 20 1990

JOSEPH F. SPANIOL, JR.
CLERK

In The
Supreme Court of the United States
October Term, 1990

CHARLES Z. STEVENS, III,

Petitioner,

vs.

UNITED STATES DEPARTMENT OF THE TREASURY,
NICHOLAS F. BRADY, SECRETARY,
U.S. DEPARTMENT OF THE TREASURY,

Respondents.

On Writ Of Certiorari To The United States
Court Of Appeals For The Fifth Circuit

JOINT APPENDIX

ALISON STEINER*
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39401
(601) 544-8291

Counsel for Petitioner

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Solicitor General
Department of Justice
Washington, D.C. 20537
(202) 514-2217

Counsel for Respondent

**Counsel of Record*

PETITION FOR CERTIORARI FILED MAY 18, 1990
CERTIORARI GRANTED NOVEMBER 5, 1990

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*Pursuant to Rule 26.1, the following items which appear in the Appendix to the Petition for Writ of Certiorari are not reproduced here:

Opinion of the United States Supreme Court of Appeals, Fifth Circuit, Case No. 89-1432, Feb. 21, 1990.....Pet. App. pp. A-5 - A-8

Memorandum Opinion and Order of the United States District Court for the Western District of Texas, April 7, 1989

DOCKET ENTRIES

**STEVENS V. UNITED STATES
TREASURY DEPARTMENT**

**UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF TEXAS**

5/3/88 Complaint filed and 4 summons(es) issued
12/30/88 Order granting motion for permission for Darwin McKee to appear as attorney of record for plaintiff
3/29/89 Bench trial begun
3/29/89 Bench trial concluded
4/7/89 Order, dismissing with prejudice. This Court is without jurisdiction to apply the Age Discrimination Employment Act to the Circumstances of Stevens' demotion in April, 1987. Costs are assigned to the party incurring them. [Entry date 04/10/89]
5/10/89 Notice of appeal by Charles Z. Stevens III from the final judgment entered in this cause on the 10th day of April, 1989
3/19/90 Certified copy of memorandum opinion and judgment of USCA affirming the district court

**UNITED STATES COURT OF APPEALS,
FIFTH CIRCUIT**

May 10, 1989 Notice of Appeal Filed

February 21, 1990 Opinion Rendered, SDJ Affirmed

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Charles Z. Stevens, III
100 Ridgeway
P.O. Box 1722
San Marcos, Hays, TX 78667

Plaintiff

v.

U.S. Department of the Treasury;
James A. Baker, III, Secretary,
U.S. Department of the Treasury

Defendants

•
•
•
•
•
• Civil Action No.
•
• A 88 CA 340
•
•

COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS
ACT OF 1964 AND THE AGE DISCRIMINATION
IN EMPLOYMENT ACT OF 1967, AS AMENDED

(Filed May 3, 1988)

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment and the Age Discrimination in Employment Act of 1967, as amended. Jurisdiction is conferred on the Court by 42 U.S.C. § 2000 *et seq.* Equitable and other relief are also sought under 42 U.S.C. § 2000e *et seq.*, 29 U.S.C. § 633a *et seq.*, and 29 C.F.R. Sec. 1626.7.
2. Plaintiff. Charles Z. Stevens, III, 100 Ridgeway, P.O. Box 1722, San Marcos, Hays, Texas 78667.
3. Defendants. The parties being sued are:
 - (a) U.S. Department of the Treasury, its business is located at 15th & Pennsylvania Avenue N.W., Washington, D.C. 20220; and
 - (b) James A. Baker, III, in his official capacity, his business is located at Office of the Secretary, U.S. Department of the Treasury, 15th & Pennsylvania Avenue N.W., Washington, D.C. 20220.

4. Plaintiff was employed as a Revenue Officer Trainee, GS-7 by the Defendants at the Internal Revenue Service, Austin District Office, 300 East 8th, Austin, Travis, Austin, Texas.
5. Defendants discriminated against Plaintiff in the manner indicated in paragraph 8 of this complaint on or about 23 March, 1987.
6. Plaintiff filed charges against the Defendants with the Equal Employment Opportunity Commission charging the Defendants with the acts of discrimination indicated in paragraph 8 of this complaint on or about 24 September, 1987 after facts and circumstances revealed the reasons given by the Defendants was willfully used to conceal the fact of age discrimination.
7. The Equal Employment Opportunity Commission issued a notice of right to file a civil action which was received by Plaintiff on 4 April 1988, a copy of which notice is attached to this complaint.
8. Because of Plaintiff's age of 63 years, Defendants failed to promote Plaintiff and forced Plaintiff to request reduction to a lower grade of employment under threat of dismissal from employment.

Plaintiff did not know of the procedures or a rule that required a charge to be lodged with an EEO Counselor within 30 days of an occurrence of age discrimination, and in fact, did not know at the time of the wrongful action that it was due to Plaintiff's age.

9. The circumstances under which Defendants discriminated against Plaintiff were as follows:

Plaintiff was the oldest in the group of trainees at age 63, and younger equally qualified or less qualified persons were retained and promoted, while some of this group were promoted to higher grade before the end of the probationary period.

The Plaintiff's assignment was changed from one area in the city of Austin to a different area in the city of Austin and the Austin County area near Houston. This change in employment conditions adversely affected my training status as it entailed a complete evaluation of an entirely new inventory while retaining cases previously evaluated and continuing to be processed. This change also required a change in on-the-job instructors (OJI). These changes - doubling the inventory and changing the OJI - was [sic] not imposed on any other trainee under the same conditions and time. These changes also affected the Plaintiff's status as an employee as it permitted an opportunity for using later circumstances to conceal the discriminating reason of age in terminating training, reassignment and reduction in pay grade without good cause.

As a result of these changes, the Plaintiff's performance evaluation changed from Above Average by the first OJI to unsuitable or below average by the second less qualified and prejudiced OJI. The Plaintiff's assignment was then terminated and given to younger persons from a new class of trainees, while Plaintiff was detailed to another degrading task until accepting transfer to the lower grade at the Internal Revenue Service Center one month later.

The Plaintiff did not agree with the reasons given for the actions taken against him, and so stated that disagreement at each opportunity. It took much time and effort on the part of the Plaintiff to discover the facts and true circumstances, and uncover actions which were subtle since Plaintiff was not told forthrightly that he was too old. This culminated in Plaintiff contacting the EEO. Counselor in August, 1987 and filing a charge 24 September 1987.

The Plaintiff was told several times that older men, one with over 17 years with the IRS, thought the union could help them be retained as Revenue Officer Trainees, but they were now out. Maintaining a

younger workforce in order to attain retirement plans for Revenue Officers, i.e. retirement at age 55 years with 20 years of service, appears to be a motive for management action which adversely affected the Plaintiff. Plaintiff, without doubt, would have been treated differently if he were younger.

There was not a reasonable cause for the adverse action against the Plaintiff.

The actions of the agency, as exemplified by the EEOC, do not reflect the Congressional intent by limiting to 30 days the filing of a charge, since this is not jurisdictional and can be modified in age discrimination complaints, and none of the changes [sic] was considered on any of the merits.

10. The acts set forth in paragraph 8 of this complaint are still being committed by Defendants.
11. Plaintiff attaches to this complaint a copy of the charges filed with the Equal Employment Opportunity which charges are submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, Plaintiff prays that the Court grant the following relief to the Plaintiff:

Defendants be directed to promote Plaintiff to the Grade GS-11, since he is qualified by education, experience and training to perform at that grade level and pay level if rated by an unbiased, objective, qualified and truthful supervisor.

Defendants be directed to award back pay to the date of change in Grade to compensate for the difference in pay of a Grade GS-9 employee, thus Plaintiff to be "made whole."

Defendants be directed to award other damages for pain and suffering by the Plaintiff in the amount of

\$25,000, or other amount to be decided by the court, for the more than a full year of extra work, time, expense, pain, suffering and embarrassment experienced by the Plaintiff and caused by the actions of the Defendants.

Defendants be directed to pay exemplary damages, since the discriminatory actions were willful violations of the Age Discrimination in Employment Act, by being done intentionally, knowingly and voluntarily. The action of the Defendants adversely affected the employment environment and the future advancement and promotion of the Plaintiff.

Defendants be directed to institute appropriate disciplinary action against three of the agents of the agency - Allen Bissell, Samuel Luna, and Andrew Cantu - for their discriminatory actions toward the Plaintiff.

Defendants be required to treat the charges as timely filed.

Defendants be directed to abolish the practice of individual OJI training, since the practice is inherently unfair, inequitable, unjust, subject to gross abuse and unsupervised, collusive management.

And that the Court grant such other relief as may be appropriate, including injunctive orders, costs and attorney's fees as may be needed.

/s/ Charles Z. Stevens, III
100 Ridgeway
 P.O. Box 1722
 San Marcos, TX 78667
 (512) 396-2630

.....
 [Exhibits omitted. Pertinent complaint exhibits are reproduced as separate items in the Joint Appendix]

C. Z. Stevens
P. O. Box 1722
San Marcos, TX 78667
May 21, 1987

Representative J.J. Jake Pickle
763 Federal Building
Austin, TX 78701

Dear Congressman Pickle:

I am writing to you to request that you intercede in the refusal of the Manager of my Revenue Officer Group to certify me for continued employment as a Revenue Officer, GS-7 (Advanced Trainee) for promotion to Revenue Officer, GS-9 with the increased advancement and pay opportunities that would entail in the future. I think that discovery of the true circumstances will vindicate the effectiveness of my performance as a Revenue Officer Trainee and my fitness for eventual promotion. My successful collection of delinquent accounts and returns in a manner which reflected the best interest of the government will demonstrate this fact. I collected over \$220,000, which is more than twelve times my annual salary, during the five months of my probationary training.

It is apparent that I received unfair, unequal, even prejudicial treatment: my territory and case workload was changed, except for the priority cases I had already contacted or opened: my OJI was changed at the same time: reference manual and other tools were not timely supplied to me: my review immediately went from 'above average' to adverse: these conditions were not imposed on any other trainee in the group or the area to my knowledge. I am sure there was an ethnic factor as well

as an age factor in the circumstances which caused my noncontinuance.

I have discussed some details of this matter with Mr. Paul Hilgers and he suggested that I should write to you if I desired to pursue the circumstances further.

If you deem my position is not to be redressed, you may as a strong participant in the Oversight Committee of Congress for the Internal Revenue Service, want to institute a close look at the operations of the Revenue Officer Groups in Austin, Texas. I am surprised and amazed that such management and employment practices can exist in a United States Government Agency. The *'we may have to take you, but we don't have to keep you'* intent is evident, as six of the nine people in the initial group can relate.

It is not possible to enumerate the practices that became evident upon reflective scrutiny, such a lack of objective standardization in the OJI program where individual qualifications and abilities are so different in judging a trainee; where different requirements are set; where exceptionally long hours are required to compete in work accomplishment: where fear and rumor are fostered: where obstacles are deliberately setup to eliminate instead of train and instruct in order to make room for new trainees. These and other practices are used to justify an initial decision to not continue a trainee, seemingly as soon as he/she starts the program. The main fault of the operation is the objective of punitive enforcement rather than to properly collect the tax in full and to secure the delinquent returns and to prevent future delinquency by the same taxpayers. This type of management operation

should not be condoned by the Congress and the Taxpayers, unless effective checks and controls are required [sic].

I would appreciate hearing from you as soon as possible whether I can meet with you and give you any more specific information, or whether you can be of assistance to me. Thank you.

Sincerely,

/s/ Charles Zollie Stevens

Charles Zollie Stevens

Home: 512/396-2630

Work: 512/462-7333

CZS/ah

DEPARTMENT OF THE TREASURY
INDIVIDUAL COMPLAINT OF EMPLOYMENT
DISCRIMINATION

Based on

Race, Color, Religion, Sex, National Origin,
Age, Physical or Mental Handicap, or Retaliation

PLEASE TYPE OR PRINT

FOR OFFICE USE ONLY

COMPLAINT NO.

PLEASE NOTE: INFORMAL PRE-COMPLAINT EEO
COUNSELING IS A REQUIREMENT AND NO FORMAL
COMPLAINT CAN BE ACCEPTED FOR INVESTIGATION
WITHOUT IT.

1. CHARLES Z. STEVENS, III

Complainant's Name

P.O. BOX 1722

Home Address - Street, RD, P.O. Box

SAN MARCOS, TX 78667

City State Zip Code

Home Phone: Area Code (512) 396-2630

Work Phone: Area Code (512) 326-0045

FTS

Give area code and number where you can be reached during normal business hours if different from those above.

2. Designation of Representative. If you want someone other than yourself to represent you, you must sign and submit TD 62-03.2. "Designation of Representative and Limited Power of Attorney." (or a suitable alternative), with this Individual Complaint of Discrimination to the Regional Complaints Center processing your case.

If, after submitting this Individual Complaint of Employment Discrimination, you decide to have a Representative, you must IMMEDIATELY SIGN AND SUBMIT TD F 62-03.2. If having selected a

Representative and having submitted this form you WISH TO CHANGE your Representative, you must sign and submit a new TD F 62-03.2 naming your choice.

3. Are you now working for the Dept. of the Treasury?
Yes ☒ No ☐
Did you formerly work for the Dept. of Treasury?
Yes ☐ No ☐
If yes, when? _____
Have you applied for employment with the Dept. of Treasury?
Yes ☐ No ☐
If you responded Yes to either of the first two questions, give title, series, grade and organization unit.
4. In what organization, office or unit of the Department do you believe discrimination/retaliation against you occurred? *I.R.S. Collection Division Austin District Office Revenue Officer Group 1300 Austin, TX*
5. What was the date of the last alleged discriminatory/retaliatory event or incident covered in counseling? *Continuing - see final report of EEO Counselor W. Stansel dated 10-14-87*
6. If you became aware of the alleged discriminatory/retaliatory event or incident covered in counseling on a date substantially different from that shown in 5, show date and explain. *On 4-27-87 as the date of re-assignment to a lower grade at AUSC & continuing to present.*
7. What was the date of your last interview with the EEO counselor? State name of counselor, where located, and telephone number.
*10-14-87 last interview
Willie P. Stansel
300 E. 8th - 4160 Ave.
Austin, TX 78701
FTS 772-5211*

8. On this same matter have you filed a grievance under a negotiated grievance procedure?
Yes ☐ No ☒
Under the Agency grievance system?
Yes ☐ No ☒
Have you appealed to MSPB? Yes ☐ No ☒
State where and when filed or appealed, give identifying numbers and describe present status. *N/A*
9. Check *only* the basis or bases on which you think you were discriminated against. Put information in the space provided *only* for the category or categories in which you are alleging discrimination. If alleging age discrimination, give date of birth. (To file a complaint based on age, you must have been at least 40 years old when the matter of concern occurred.)
☒ AGE ☐ COLOR: ☐ ☐ SEX ☐
☐ NATIONAL ORIGIN
DATE OF BIRTH *08-10-23*
☐ RACE ☐ RELIGION ☐
☐ RETALIATION/REPRISAL
☐ FOR INVOLVEMENT IN
COMPLAINTS PROCESS
HANDICAP:
☐ MENTAL
☐ PHYSICAL
10. State your complaint, identify the specific acts, incidents or events which you believe were discriminatory or in retaliation against you. Show the dates on which these acts, incidents or events occurred. If you are alleging that you are perceived as being handicapped, you should include a statement of the manner in which you feel you were discriminated against, e.g., failure to modify work site, failure to offer opportunity for training or advancement. If

you are handicapped and your complaint is concerned with a specific job, training, etc., you should offer evidence that you were qualified for the position, training, etc. which you sought. If handicapped, you should also request the reasonable accommodation you prefer, if appropriate. If you feel this space is not adequate to provide sufficient information to understand your complaint, you may use an extra sheet. If your complaint is accepted for processing, you will be given the opportunity to provide a detailed affidavit.

I was terminated as an Advanced Trainee Revenue Officer GS-7 by Group Manager, Sam Luna, effective 4-26-87. The verbal reason he gave to me was "workload potential," although subsequent indications were their age was the primary reason, if not the sole reason. Luna stated that Branch Chief Allen Bissell knew and approved of this action. I was transferred to the Austin Compliance Center at a lower grade of GS-6 on 4-27-87. I had told each person in the chain of management that I disagreed with the failure to certify me as a GS-9 Revenue Officer at each opportunity, but was forced to agree to request a transfer in order to keep working for the needed income.

In order to conceal the real reason (age), my territory was changed from Austin City to Austin County near Houston, my number of cases were doubled and my OJI was changed to Andy Cantu. His conduct (and OJI qualifications) in support of Bissell's and Luna's decisions are now apparent and should be addressed later. It is significant that no other trainee was given this treatment. Also, an IRM, computer (PERS) and other tools were not timely supplied to me. My evaluation report went from above average to unsatisfactory for one critical [illegible] and just prior to the ten month deadline.

11. State the remedial or corrective action you are seeking to resolve your complaint.

- 1* *Re-assignment and certification as a Revenue Officer Grade GS-9 effective in July, 1987 when due originally.*
2. *Disciplinary action against Bissell, Luna and Cantu.*
**Note: Counselor misunderstood relief or remedy on his report.*

12. You must sign and date this complaint.

This is also my notice of intention to sue in U.S. Civil District Court if the matter is not satisfactorily resolved.

/s/ Charles Z. Stevens, III

Signature

October 19, 1987

Date

DEPARTMENT OF THE TREASURY

Regional Complaints Center

7839 Churchill Way, LB-80,
Dallas, Texas 75251

DEC 03 1987

Mr. Charles Z. Stevens, III
P.O. Box 1722
San Marcos, Texas 78667CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: TD Case Number 88-2012

Dear Mr. Stevens:

I have reviewed the above referenced complaint of discrimination which was filed on October 19, 1987. The discrimination complaint regulation, 29 CFR 1613.215, provide that an agency may reject a complaint if: (1) the complainant failed to contact an EEO Counselor within 30 days of the date of the matter alleged to have been discriminatory, or, if the matter alleged to be discriminatory is a personnel action, within 30 days of the effective date of the personnel action; or (2) if the complaint was not filed within 15 days of the date of the final interview with the EEO Counselor. The Agency may extend these time limits if the complainant can show that he/she was unaware of the time limits or was prevented by circumstances beyond his/her control from meeting those time limits, 29 CFR 1613.214. The complainant must have the opportunity to show that he/she was prevented from meeting the time limits. *Oaxaca v. Roscoe*, 641 F.2d 386 (5th Cir. 1981); *Salz v. Lehman*, 672 F.2d 207 (D.C. Cir. 1982).

The record shows that on March 23, 1987, you received notice that you would not be certified as a Revenue Officer, GS-1169-09. The reason cited for the recommendation was an extremely high percentage of errors in most of the critical elements.

By memorandum dated March 26, 1987, you requested reassignment to the Austin Service Center. in a memorandum dated April 27, 1987, to the Personnel Branch, you requested a change to lower grade from Revenue Officer, GS-1169-07, to a Tax Examining Assistant, GS-592-06, Examination Division, Austin Compliance Center. The effective date of the change to lower grade was April 26, 1987.

The record shows that by letter dated May 21, 1987, to Representative J.J. Pickle, you requested that he intercede on your behalf for certification as a Revenue Officer. By letter dated June 12, 1987, Congressman Pickle, advised the District Director, Austin, of your request for assistance and requested that he discuss the situation with you. On July 2, 1987, the District Director advised Congressman Pickle that your reassignment was voluntary and you had discussed many of his concerns with all levels of management, including the Assistant District Director.

On September 24, 1987, (151 days after the change to lower grade and transfer to the Austin Service Center) you contacted an EEO Counselor and entered into counseling. Upon receipt of the formal complaint on October 23, 1987, the EEO Specialist telephoned you and requested that you prepare a written explanation as to why you were untimely in contacting an EEO Counselor.

You stated, "I did not contact an EEO Counselor because I wasn't aware that I could could [sic] so." In your letter dated November 11, 1987, you failed to show that you were unaware of the time limits or that you were prevented by circumstances beyond your control from meeting the time limits. You stated in your letter that when it became clear that a correction of the discriminatory persons' decisions could not be achieved, you were advised to file an EEO complaint. You chose to have the Office of Congressman Pickle look into the alleged discriminatory matter and only after you exhausted this avenue did you contact an EEO Counselor. In your letter, you also referred to pages 116-118 of the Federal Personnel Guide, where you highlighted the section emphasizing reaching informal settlements. The third paragraph clearly states that you must first contact (orally or in writing) an EEO Counselor at the Agency where you work or applied for a job within 30 calendar days of the alleged discriminatory action. Therefore, your statement that the date that you knew or should have known of the discriminatory event was not possible to set because the events were continuing is highly questionable. The record reflects that you were advised of the reasons for the reassignment and you discussed your concerns with all levels of management, including the Assistant Director. Your contact with the counselor on September 24, 1987, (151 days after the alleged discriminatory event) was untimely and you have not provided adequate justification for extending the time limit. Therefore, I am rejecting your complaint based on untimeliness.

Based on the foregoing, I am rejecting the above referenced complaint of discrimination dated October 19,

1987, in accordance with Equal Employment Opportunity Regulation 29 CFR 1613.215., because of your untimeliness in contacting an EEO Counselor. This constitutes a final agency decision on this issue.

An award of attorney fees is inappropriate. Your appeal rights are enclosed.

Sincerely,

/s/ Maureen C. Bass
Maureen C. Bass
Director
Regional Complaints Center

Enclosure
As Stated

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Review and Appeals
5203 Leesburg Pike, Suite 900
Falls Church, Virginia 22041

Charles Z. Stevens,)	
)	Appeal No..
Appellant,)	01880847
)	Agency No.
v.)	88-2012
Department of the Treasury,)	
)	
Agency.)	

DECISION

Appellant filed an appeal with this Commission from a final decision of the agency concerning his complaint of unlawful employment discrimination, in violation of the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 *et seq.* The final agency decision was received by appellant on December 8, 1987. The appeal was postmarked December 22, 1987. Accordingly, the appeal is timely (*see* 29 C.F.R. § 1613.233(a)), and is accepted in accordance with EEOC Order No. 960, as amended.

The issue on appeal is whether the agency properly rejected appellant's complaint on the grounds that appellant failed to seek EEO counseling in a timely fashion.

A review of the record reveals that appellant, a revenue officer trainee, alleges discrimination based on age when he was advised on March 23, 1987 that he would not be certified as a revenue officer, and when he was transferred effective April 27, 1987 to another agency office with a lower GS grade.

EEOC Regulation 29 C.F.R. § 1613.214(a)(1)(i) requires that complaints of discrimination be brought to the attention of the Equal Employment Opportunity Counselor within thirty (30) calendar days of the alleged discriminatory event, the effective date of an alleged discriminatory personnel action, or the date that the aggrieved person knew or reasonably should have known of the discriminatory event or personnel action. Here, the record reflects that appellant first sought EEO counseling with respect to the rejected complaint on September 24, 1987, which is beyond the thirty (30) calendar day time limit set by the Regulations.

In a letter to his Congressman dated May 21, 1987 appellant stated: "I am sure there was an ethnic factor as well as an age factor in the circumstances which caused my non-continuance." Apparently by May 21, 1987 appellant knew of the alleged age discrimination. Appellant failed to submit adequate justification, pursuant to 29 C.F.R. § 1613.214(a)(4), for extending the time limitation beyond thirty (30) days. Accordingly, the agency's decision to reject appellant's complaint as untimely was proper and is AFFIRMED. 29 C.F.R. § 1613.215(a)(4).

A Statement of Appellant's Rights (R-1) is attached to this Decision.

FOR THE COMMISSION:

/s/ Dolores L. Rozzi
Dolores L. Rozzi, Director
Office of Review and Appeals

MAR 30 1988
DATE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

(Transcript Excerpts from Argument on
Rule 41(b) Motion)

[79] MS. SMITH: [Counsel for Defendants] Your Honor, defendants would ask this Court for a ruling based on Rule 41(b), that plaintiff's complaint should be dismissed * * * .

Plaintiff has failed to establish why, or to show any evidence why he waited until September of 1987 to file, to go to an EEO counselor to bring up the complaint of age discrimination, when he was reassigned in April and wrote to his congressman in May that he believed his reassignment was based on age discrimination. Plaintiff presented no evidence to show why he failed to meet the 30-day time period required by the ADA Act, and to raise any equitable grounds as to why that period should be tolled. * * *

THE COURT: I would like to hear, Mr. McKee, particularly on the first point. What is with the April to [80] September time period?

MR. McKEE: [Counsel for Plaintiff] Your Honor, * * * I believe the law is, and the Age Discrimination in Employment Act, different than in other civil rights actions in that a party, a complainant could forego the EEO complaint route completely, the administrative route. I believe that what they are suggesting is that he must complete the administrative route before he can bring suit in this Court. I don't believe that that is the law. I think the law is that as long as notice is provided within a 180-day period, that he can bring suit at anytime

by giving 30 days notice to the parties involved. I think he did in fact do that within the 180 days, * * *

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

November 5, 1990

Mr. Alison Steiner
P. O. Box 368
224 Second Avenue
Hattiesburg, MS 39401

Re: Charles Z. Stevens, III
v. Department of the Treasury, et al.
No. 89-1821

Dear Mr. Steiner:

The Court today entered the following order in the
above entitled case:

The petition for a writ of certiorari is granted.

Very truly yours,

/s/ Joseph F. Spaniol, Jr.
Joseph F. Spaniol, Jr., Clerk
